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## Debate in the Senate.

MR. MERRICK, of Ky.  
On the bill to incorporate the First Bank of the United States.

July 27, 1841.

MR. PRESIDENT: The Senator from Pennsylvania, [Mr. Buchanan], in the course of his very able argument, in reply to the report of the committee on the currency, and to the observations of my colleague, [Mr. Clay], in support of the charter of the proposed bank, excepted, in strong terms, to the position assumed by the committee in reference to the settlement of the constitutional question involved by this bill. "The committee," says the honorable Senator, "express a decided opinion that the power of Congress to establish a national bank ought to be regarded as a settled question. It is settled," it must be considered as settled, "say all the friends of the bank, and their arguments on this subject have been urged for the purpose of proving, not that the question ought to be, but that it is settled in their favor. Before a court of law, in a case involving private rights under either of the old charters, it may be considered as settled; but the proposition now before Congress is to create a new bank, the two old banks having lived out the allotted period of their existence. The question is now put to the conscience of each Senator, and he is asked, 'Do you possess the power, under the constitution, to create this bank?' If all the judges and all the lawyers in Christendom had decided in the affirmative, when the question is thus brought home to me, as a legislator, bound to vote for or against a new charter, upon my oath to support the constitution, I must exercise my own judgment."

The Senator proceeded to declare his "respect for judicial decisions within their appropriate sphere," and having denied that "there is any judicial precedent in existence which can restrain, or ever intended to restrain, the freedom of members of Congress in voting for a new bank," he asks, "If the question has not been settled by the judiciary, has it been settled by Congress? Certainly not. If two national banks have been chartered, they have both been suffered to expire at the termination of their charters, because their existence was believed to be a violation of the constitution. To say the least, then, the legislative precedents are equal. But, if we take into consideration the repeated attempts to establish a bank which have failed, Congress have much oftener decided against the power than in its favor."

"In short," the Senator concluded, "the question has neither been settled by the judiciary, nor by Congress, nor by the People, nor by the Executive, unless it may have been against the existence of this dangerous power, and against the policy of its exercise."

The Senator from Virginia [Mr. Rives] takes, in some respects, the same view. He contends that "this mooted question has received different decisions at the hands of the People and their representatives, at different times." "If it has been settled one way at one time, it has been settled another way at another time; the result of which is, that it is yet an unsettled and open question, and will probably remain so, in the public judgment."

From this statement of what fell from the honorable Senators from Pennsylvania and Virginia, it is observable that they agree in opinion "that the legislative precedents are equal;" that "it is yet an unsettled and open question;" that "it has received different decisions at different times." But the Senator from Pennsylvania goes one step farther than my friend from Virginia, and asserts that the two national banks which have been chartered by Congress have been suffered to expire "because their existence was believed to be a violation of the constitution." He asserts also that, considering "the repeated attempts to establish a bank that have failed, Congress have much oftener decided against the power than in its favor."

It is not my purpose to go at large into the discussion of the abstract question of the constitutional power of Congress to incorporate a bank. It has been discussed at four different periods in our history by the ablest men that this country has ever produced. It was discussed in these halls in 1791, in 1811, in 1816, and in 1832. It has been discussed before the People, before the Legislatures of the states, and it has been solemnly determined by the supreme judicial tribunal of the nation. No single question of constitutional power has been so thoroughly investigated. It would be folly for me to attempt—I shall not attempt—to contribute a ray to the overwhelming flood of light by which the subject has been surrounded.

I propose to show, Mr. President, that, so far from the legislative precedents being equal, they are all one way; that Congress have never, in a single instance, "in the repeated attempts to establish a bank," decided against the exercise of this power on constitutional grounds; that if

the charters of former banks have been permitted to expire, it has not been, as the Senator from Pennsylvania supposes, because Congress believed their existence to be a violation of the constitution; but the contrary; and that if any question of doubtful power under the constitution can be regarded as settled, this is that question.

I begin with the year 1791, premising only that I shall content myself with stating results without comment, except such as may be indispensable for their elucidation.

1. The first charter was introduced into the Senate in December, 1790. It passed both Houses of Congress by very decided majorities. On the 14th February, 1791, it received the approbation of the President.

2. In March, 1808, a memorial of the stockholders of the bank was presented to the House of Representatives, and in the following month to the Senate, praying a renewal of their charter. No other action was had upon the subject than to refer the memorial to the Secretary of the Treasury, "to consider and report thereon at the next session of Congress." On the last day of that session, that is to say, on the 28 day of March, 1809, the Vice President communicated to the Senate the report of the Secretary of the Treasury, and it remained among the unfinished business. At the ensuing session the House resumed its consideration, and the memorial was referred, on the 29th January, 1810, to a select committee. The report of the committee recommended the adoption of a resolution, declaring that "it was proper to make provision for continuing the establishment of the Bank of the United States, with offices of discount and deposit, under the regulations necessary for the beneficial administration of the national finances, during such time and on such conditions as may be defined by law." It was referred to the committee of the whole house, but that committee was subsequently discharged from its consideration, and reference was made of it to another select committee, with instructions to report a bill. A bill was reported accordingly to continue the charter of the bank for twenty years. No question arose, no vote was taken, on the merits of the bill. The whole subject was permitted to lie over until another session of Congress.

3. On the 18th December, 1810, the memorial of the stockholders was again presented in the House of Representatives, and the committee to whom it was referred reported a bill for the continuation of the charter of the bank. After a very elaborate discussion the question was taken upon a motion made by Mr. Newton, of Virginia, to postpone the bill indefinitely. The motion prevailed by a majority of one vote only—ayes 65, noes 64—in the absence of eleven members of the House.

Shortly after this determination, Mr. Crawford brought forward a similar bill in the Senate; and a motion to strike out in the first section, which was equivalent to its rejection, was decided in the affirmative by the casting vote of the Vice President, and the bill fell in both Houses.

This, sir, is one of the cases which, in the opinions of the Senators from Pennsylvania and Virginia, constitutes a precedent against the bank. This is one of those attempts, the failure of which is relied on to prove that the Congress of 1811 believed that the power to establish a bank did not exist. A few words only on that point. Assuming it to have been a decision against the power, it must be admitted to carry with it very little force as an authority, when we consider that the bill was lost by a majority of one vote in each House of Congress. But the truth is, that the question did not turn exclusively on the constitutional power. There were members of both Houses who opposed the bill, believing it to be constitutional. For one of those who voted in the House of Representatives for the indefinite postponement, I am authorized to say that he did not then, and does not now, and never did, entertain a doubt upon the constitutional question. I allude to a venerable and distinguished member, then, and now, of the House of Representatives, (Governor Morrow, of Ohio), a gentleman, of whom I may be permitted to add, that the soundness of his political principles are only equalled by the purity of his private, and the uprightness and consistency of his public life. His vote, if the question had been one alone of constitutional power, would have cast the balance in favor of the bill, and changed the precedent the other way.

Thus stood the case in the House. How did it stand in the Senate? Sir, we have the authority of Mr. Madison for saying that "as to the negative of the President by the casting vote of the president officer, it is a fact, well understood at the time, that it resulted not from an equality of opinions in that assembly on the power of Congress to establish a bank, but from a junction of those who admitted the power but disapproved the plan, with those who denied the power. On a simple question of constitutionality," he adds, "there was a decided majority in its favor."

authority, indisputable as it is, of that great and good man. The point is still more direct and explicit. In the discussion which occurred in the Senate on the President's veto message in 1832, a distinguished Senator from Maryland (General Samuel Smith) declared, in his place, in answer to a question put to him by Mr. Webster, that "he had voted against the bank in 1811, not at all on constitutional grounds; and he had no doubt such was the case with other members of the Senate." His vote would have decided the question favorably to the exercise of the power. So much for the precedent of 1811.

4. The next movement, Mr. President, occurred during the session of Congress which commenced in December, 1812.

In January, 1814, a petition was presented in the House of Representatives from New York, praying the establishment of a national bank, which was referred to the committee of ways and means. Mr. Eppes, from Virginia, was the chairman of the committee. On the 20th January he reported to the house that, in the opinion of the committee, Congress did not possess the power to create corporations within the territorial limits of the States; within the consent of the States; and the report, as usual, was referred to the committee of the whole. On the motion of Mr. Calhoun, of South Carolina, that committee was discharged from the consideration of the subject, and the committee of ways and means were instructed to inquire into the expediency of establishing a national bank, to be located in the District of Columbia. A bill was reported, in conformity with the instructions of the House, which was read and committed. On the 10th March, Mr. Pick, of New York, moved to discharge the committee of the whole house from the consideration of that bill, and that it be referred to a select committee, with instructions to report a bill with provisions for the establishment of a national bank with branches. This latter motion was rejected by the House, and no further action was had on the bill of the committee of ways and means.

If the proceedings had stopped here, there would be some reason for supposing that the opinion of the House was, in this instance, unfavorable to the exercise of the power to establish a bank with branches. But in less than a month another movement was made, which is clearly indicative of a different intention. On the 24 April, Mr. Grundy, from Tennessee, submitted a resolution that "a committee be appointed to inquire into the expediency of establishing a national bank, and that they have leave to report by bill or otherwise." Mr. Grundy said, "he wished to see a bank established as a national object, let who will be in power;" "he entertained no constitutional scruples about it;" "he always had been in favor of a measure of this sort;" "in point of time, he thought the present situation of the country afforded a cogent argument in favor of the measure." Mr. Newton, of Virginia, "moved that the resolution be postponed indefinitely," but the House refused the motion—seventy-one voting in the affirmative, and eighty in the negative.

Mr. Hall of Geo. proposed to amend the resolution by adding after the word "bank," the words "to be located in the District of Columbia," but the motion failed, only thirty-two voting in favor of it. On the 8th April, at the instance of Mr. Grundy, the chairman of the last mentioned committee, they were discharged from the further consideration of the resolution—and there, for that session, the action of the House terminated. The motives which induced the chairman (Mr. Grundy) to make the motion to discharge the committee, are fully indicated by the debates upon his resolution. The session was near its close. Mr. Newton alleged as his reason for moving the postponement, that "the time rapidly approached at which the House had resolved to adjourn"—"that but nine days remained of the session"—and the journals show that Congress did adjourn on the 16th April, only eight days afterwards. The subject was not brought up in the Senate; but the decided expression of the judgment of the House against a motion for an indefinite postponement, is conclusive proof of the solicitude which was felt by a majority of that body, that a bank charter, in some shape, should pass. Such is the history of the failure of another of the attempts to which the Senator from Pennsylvania has alluded.

5. But, sir, the great object of restoring the currency was far from being abandoned. There was an all pervading impression that nothing but a national bank could relieve the Government, and, consequently, at the next session of Congress the House of Representatives resumed the subject. Another memorial from New York was referred to the Committee of Ways and Means, of which Mr. Eppes continued to be the chairman. On the 10th October, 1814, that committee made a report on the finances of the Government, embracing four resolutions, none of which contained a proposition for a bank. Upon a reference of that report to a committee of the whole, the latter committee moved the resolu-

tion, by the addition of three others, one of which declared that "it is expedient to establish a national bank with branches in the several States." This resolution was adopted by the House—ayes 92, noes 34; and having been referred to the Committee of Finance and Accounts, that committee, on the 7th November, reported a bill in incorporation of the Bank of the United States. In due sequence, however, of differences of opinion respecting the details, and for this reason alone, the bill was rejected on the 20th November, 1814.

Senator, sir, on the 24 of the following month of December, a similar bill was reported in the Senate. Such was the belief of the necessity of a bank of some sort, that it passed that body on the 9th of the same month. In its progress through the House of Representatives, it also proved to be unacceptable to the majority, and it was rejected, on its final passage, by the casting vote of the Speaker. (Mr. Cheves, of South Carolina.) A motion to reconsider was made and carried one hundred and seven voting in the affirmative, and fifty-four in the negative. The bill was then recommended, and on its return to the House in an amended form, it passed—not unanimously, sir, but—by a vote of one hundred and twenty-three in the affirmative, and twenty-three in the negative. The amendment of the House were concurred in by the Senate, and the bill passed both Houses. President Madison withheld his approbation, and returned it to the Senate with his objections. These objections, it is well known, did not arise from any scruples respecting its conformity to the Constitution; on the contrary, sir, he said, "Wishing the question of the Constitutional authority of the legislature to establish an incorporated bank, as being precluded, in my judgment, by repeated precedents, under varied circumstances, of the validity of such an institution, in acts of the legislative, executive, and judicial branches of the Government, accompanied by indications in different modes of a concurrence of the general will of the nation, the proposed bank does not appear to be calculated to answer the purposes of reviving the public credit, of providing a national medium of circulation, and of aiding the Treasury by facilitating the indispensable anticipations of the revenue, and by affording to the public more durable loans."

The veto of the President did not prevent further efforts to incorporate a bank. On the 6th February, Mr. Barbour, of Virginia, with the leave of the Senate, introduced another bill. It passed that body, but its progress through the House was interrupted and suspended by a great and unexpected event—the treaty of peace with Great Britain. The struggling energies of the friends of the Government relaxed on the reception of the intelligence. Mr. Lowndes moved, in the House, the indefinite postponement of the bill from the Senate—"not," he said, "from any hostility to a national bank;" but because, "in the fragment of the session that then remained," "Congress could not establish a bank half so eligible or half so durable as they could at a future session." Mr. Forsyth, of Georgia, made an effort to commit the bill, but the House, evidently with great reluctance, sustained the motion to postpone to the close vote of 74 to 73.

6. The next precedent occurred in 1816. Upon the recommendation of Mr. Madison and his Secretary of the Treasury, (Mr. Dallas,) the charter of the second Bank of the United States was passed. The bill originated in the House of Representatives under the fostering care of the honorable Senator from South Carolina, [Mr. Calhoun], and having passed both Houses by decisive majorities, it received the sanction of President Madison on the 10th April 1816.

7. The bill of 1832 was presented to the Senate by a distinguished Senator from Massachusetts, [Mr. Webster]. Its object was to continue in force the charter of the bank for twenty years. On its final passage through the body, the vote stood—ayes 28, noes 20. It passed the House of Representatives by a vote of 107 to 85. On the 10th July, 1832, President Jackson returned it with his objections to the Senate.

Such are the precedents which your legislation presents, bearing upon the question of the constitutional power of Congress to incorporate a Bank of the United States; and it is in view of such reiterated affirmations of the power the honorable Senator from Pennsylvania has declared that, regarding "the repeated attempts to establish a bank which have failed, Congress have much oftener decided against the power than in its favor." I may now, sir, venture the assertion that, since the commencement of the Government, the legislative department has never disclaimed the power. I may venture the assertion that no single power, derivable from the Constitution, of the existence of which well founded doubts have been at any time entertained, has been so firmly established by legislative recognitions as the one we are now considering.

What, then, sir, does this array of accumulated precedents mean? Are they to have no obligatory influence upon the action of the Government? Are we still

where we were in 1791, when the question of the power of Congress to create a bank was, for the first time, started? Have we taken no step towards its final determination? Can it be, as the Senator from Virginia has suggested, that "it is yet an unsettled and open question?" and is it designed forever "to remain on the public judgment?"

Sir, with all the respect for the opinions of gentlemen, I am compelled to say that, in my opinion, such a doctrine is subversive of great principles closely connected with the durability of the Constitution. If the construction of its doubtful powers can never be established by precedent, those powers must continue to be dangerous sources of collision between the departments of Government, and of agitation of the public mind. You will have no landmarks to guide you, but the few specific powers which are granted in the Constitution. All else is liable to perpetual fluctuation. Nothing is ascertained—nothing settled—except what the Constitution in terms has ascertained and settled; and your Government, instead of being a system of well-adjusted parts, or a system susceptible of adjustment by frequent recognitions of its constituted powers, is a mass of loose and floating elements, threatening incessantly its own dissolution.

Sir, such cannot be the true principles of the Constitution of the United States; and in support of what I say, I appeal to the opinions of men, whose sagacious and wise councils have in other times exerted a salutary influence over the minds of their countrymen.

In the conclusion of an able official letter on the subject of a national bank, addressed to Mr. Crawford, on the 20th January, 1811, Mr. Secretary Gallatin thus spoke:

"I have not adverted to the question of constitutionality, which is not a subject of discussion for the Secretary of the Treasury. Permit me, however, for my own sake, simply to state that the bank charter having, for a number of years, been acted upon or acquiesced in as if constitutional, by all the constituted authorities of the nation and thinking myself the use of the bank to be at present necessary for the exercise of the legitimate powers of the General Government, the continuation of the Bank of the United States has not in the view which I have been able to take of the subject, appeared to me to be unconstitutional."

Mr. Dallas, when at the head of the Treasury Department, was still more explicit. "In making a proposition for the establishment of a national bank," he said, in a communication to Mr. Eppes, on the 17th of October, 1814:

"I cannot be insensible to the high authority of the names which have appeared in opposition to that measure on constitutional grounds. It would be presumption to conjecture that the sentiments which actuated the opposition have passed away; and yet it would be denying to experience a great practical advantage were we to suppose that a difference of times and circumstances would not produce a corresponding difference in the opinions of the wisest as well as the purest of men. But, in the present case, a change of private opinion is not material to the success of the proposition for establishing a national bank. In the administration of human affairs, there must be a period when discussion shall cease and decision shall become absolute. A diversity of opinion may honorably survive the contest; but, upon the genuine principles of a representative government, the opinion of a majority can alone be carried into action." "When, therefore, we have marked the existence of a national bank, for a period of twenty years, with all the sanctions of the legislative, executive, and judicial authorities; when we have seen the dissolution of one institution and heard a loud and continued call for the establishment of another, when, under these circumstances, neither Congress nor the several States have resorted to the power of amendment, can it be deemed a violation of the right of private opinion to consider the constitutionality of a national bank as a question forever settled, and at rest?"

In justice, Mr. President, to the honorable Senator from Pennsylvania, I cannot pass without notice, in this connection, the strong opinions of a distinguished member of the political party to which he belongs—I mean a late Secretary of the Treasury, Mr. McLane, of Delaware. He was, at the period when those opinions were delivered, deservedly high in the confidence of President Jackson and of his party, as is manifest not only from the position which he held in his cabinet, but from his subsequent appointment to a most important foreign mission. On the 7th December, 1831, when the people of the United States, without regard to party differences, were full of anxiety on the subject of the bank, Mr. McLane transmitted to Congress his annual report on the finances.

After adverting to an ordinance of the Congress of 1781, convened under the articles of confederation, incorporating the Bank of North America, and to the aid afforded by that institution to the colonies in the war of independence, he proceeded to say:

"The authority of the present Government to create an institution for the same purposes cannot be less clear. It has, moreover, the sanction of the executive, legislative, and judicial authorities, and a majority of the people of the United States, from the organization of the Government to the present time. If public opinion cannot be considered the infallible expounder, it is among the soundest commentators of the constitution. It is undoubtedly the wisest guide, and the only effective check, to those to whom the administration of the constitution is confided, and it is believed that, in free and enlightened states, the harmony, not less than the welfare of the community is best promoted by receiving as

settled these great principles of public policy, in which the constituted authorities have long concurred, and in which they have been sustained by the unequivocal expression of the will of the people."

The views of Mr. Madison were presented, at length, in a letter to Mr. Laguerre, of Pennsylvania, in 1831, containing his reasons for the approval of the charter of 1816. I must content myself with a single extract:

"The act," he observed, "originally establishing the bank had undergone several changes in its progress through the several branches of the Government. It had been carried into execution throughout a period of twenty years, with annual legislative re-enactments; in one instance, indeed, with a positive reformation of it into a new state, and with the entire acquiescence of all the local authorities, as well as the nation at large; to all of which may be added a decreasing prospect of any change in the public opinion adverse to the constitutionality of such an institution. A veto from the Executive, under these circumstances, with an admission of the expediency and almost necessity of the measure, would have been a defiance of all the obligations derived from a course of precedents amounting to the requisite evidence of the national judgment and intention."

The Senator from Pennsylvania, with commendable candor, acknowledged that "no man holds in higher estimation than he does the memory of Chief Justice Marshall." The opinion of that illustrious jurist is, therefore, entitled to his respect. In the decision of the case of McCulloch against the State of Maryland—a decision which will "stand the test of human scrutiny, of talents, and of time"—he thus expressed himself:

"The first question made in the case is, have Congress the power to incorporate a bank? It has been truly said that this can scarcely be considered an open question, entirely unprejudiced by the former opinions of the nation respecting it. The principle now questioned was introduced at a very early period of our history, has been recognized by many successive Legislatures, and has been acted upon by the judicial department, in cases of peculiar delicacy, as a law of undoubted obligation."

"It will not be denied that a bold and daring usurpation might be resisted after an acquiescence still longer and more complete than this. But it is conceived that a doubtful question—one on which human reason may pause, and the human judgment be suspended—in the decision of which the great principles of liberty are not concerned, but the respective powers of those who are equally the representatives of the people are to be adjusted, if not put at rest, by the practice of the government, ought to receive a considerable impetus from that practice. An exposition of the constitution, solemnly established by legislative acts, on the faith of which an immense property has been advanced, ought not to be lightly disregarded."

But, whatever may be the respect of the honorable gentleman from Pennsylvania for the memory of the late Chief Justice of the United States, I am about to refer to one whose opinions upon this subject will I flatter myself, have great weight with him—they are the opinions of President Jackson. On more occasions than one that distinguished individual felt himself sustained, in the exercise of some of the strongest measures of his administration, by legislative precedents—by the examples of his predecessors, and by the practice of the government.

Sir, that highest and most dangerous of all powers of this government—the executive power of removal from office—I do not say for opinion's sake, but for any cause—where did President Jackson derive it? From the enumerated powers of the constitution? No, sir, not at all; the constitution no where bestows it. It is then a constructive power, and is to be maintained, if maintained at all, by reason and argument. Well, sir, when President Jackson discharged Mr. Duane for his disobedience of an executive command to remove the deposits of the Government from the Bank of the United States, how did he acquit himself before Congress and the nation for the exercise of a power so violent, as under the circumstances, that was admitted to have been? By an appeal to the express terms of the constitution? No; but "by the contemporaneous construction of that instrument, and the uniform practice under it." "The power of removal," he said in his protest against the proceedings of the Senate in 1834, "was a topic of solemn debate in the Congress of 1789, while organizing the administrative departments of the Government; and it was finally decided that the President derived from the constitution the power of removal so far as it regards that department for whose acts he is responsible." "Here, then," he added, "we have the concurrent authority of President Washington, of the Senate and House of Representatives, numbers of whom had taken an active part in the convention which framed the constitution, and in the state conventions which adopted it, that the President derived an unquestioned power of removal from an unquestioned instrument."

Congress decided that the power existed under the constitution; and "the act as it passed," said President Jackson, "has always been considered as a full expression of the sense of the Legislature on this important part of the American constitution."

Again, sir, as to the tariff. The constitution has not, in terms, conferred upon Congress the power to impose duties on imports for the protection of our own manufactures; and the existence of the power has long been disputed. In his second annual message President Jackson



affirms it to exist; and having, by a train of irresistible arguments, satisfied his own mind upon the subject, he said:

"In this conclusion I am confirmed as well by the opinion of President Washington, Jefferson, Madison, and Monroe, who have each repeatedly recommended the exercise of this right under the constitution, as by the uniform practice of Congress, the continued acquiescence of the States, and the general understanding of the people."

A still stronger illustration of the views of President Jackson occurs in his message of 1830, containing his objections to the Mayaville road bill. The power of Congress to make internal improvements, like those which have been alluded to, was a contested power. He admitted its existence, in cases where the works to be constructed were national, not local, in their character. Having referred, in the progress of his argument, to examples of its exercise by preceding administrations of the government, and to the "admonitory proof of the force of implication" which those examples furnished; and having asserted that it was "the duty of all to look to that sacred instrument (the constitution) instead of the statute-book," he was of opinion, nevertheless, that

"The public good, and the nature of our political institutions, require that individual differences should yield to a well-settled acquiescence of the proper and conferred authorities in particular constructions of the constitution on doubtful points. Not to concede this much," he declared, "in the spirit of our institutions, would impair their stability, and defeat the objects of the constitution."

It remains for me to add to this mass of concurrent testimony, favorable to the efficacy of legislative precedents, the unequivocal declaration, almost testimonial, of that distinguished man who has recently descended with so many regrets to the grave—"I consider it," said President Harrison in his inaugural speech, "the right and privilege of the people to decide disputed points of the constitution arising from the general grant of power to Congress to carry into effect the powers expressly given; and I believe with Mr. Madison that 'repeated recognitions, under varied circumstances, in acts of the legislative, executive, and judicial branches of the government, accompanied by indications in different modes of the concurrence of the general will of the nation, afford to the President sufficient authority for his considering such disputed point as settled.'"

I have now, I trust, Mr. President, sufficiently maintained the position, which I ventured to assume, that Congress have never, in any instance, refused to exercise the power to incorporate a Bank of the United States on constitutional grounds. In the review which I have attempted of the legislative proceedings relating to that institution, I am unconscious of having omitted anything material to the issue between the Senators from Pennsylvania and Virginia and myself. The result is that the authority of precedents, legislative and judicial, is exclusively on one side; and concludes the question of constitutional power, if, indeed, it can be concluded, in that way.

But there is another source of authority to which I propose to call your attention. It is the authority of the great men, by whom that power has been solemnly affirmed and maintained. When we hear it proclaimed, from a distinguished source on the opposite side of this chamber, that the passage of this bill will be the announcement of a revolution—nay, sir, that the revolution has actually commenced—I desire to present to the Senate, and to the American people, the names of the men by the force of whose example that revolution is to be effected. If the temple of our liberties is so soon to be consumed, and if a Bank of the United States is the torch to light the conflagration, I desire to present to the Senate, and the American people, the names of the men by whom that torch has been kindled.

The argument, Mr. President, I am about to offer on this branch of the discussion would be incomplete, if it were not sustained by the authority of that great mind which left its ineffaceable impression on the American Revolution, on the Constitution of the Union, and on the Administration of your Government during the most difficult conjuncture of your affairs. You cannot, of course, mistake my allusion to the first President of the United States. Sir, when General Washington entered the Executive Department in 1789, he was fresh from the Convention that formed the Constitution, whose powers he was about to administer. The way and centre of the political system, he was soon surrounded by other luminaries, whose combined effulgence illuminated the continent. At the head of the distinguished men who composed his cabinet, and gave assurance to the country of a secure and faithful administration of the government, was Thomas Jefferson. He had been the minister to France in 1787, and was not therefore a member of the Federal Convention. But he was the author of the declaration that severed the colonies from the parent country. He had pledged his life and fortune and honor in support of it. He was a star of the first magnitude in that bright constellation of heroes and statesmen that adorned the period of your revolutionary struggle. But it is very well known that he was not satisfied with the Federal Constitution. It is well known that, at the time it was adopted and afterwards, he expressed his disapprobation of it, as well for what it did, as for what it did not contain. One of his prominent characteristics was jealousy—jealousy of the absorbing influence of the Government—jealousy of the exercise of its constructive powers—as if it were not plainly impracticable that every power necessary and proper for its due administration could, in the nature of things, be specifically granted. Sir, I mean no disrespect to the character of Mr.

Jefferson when I say that, to my judgment, some of his opinions of constitutional power cannot be reconciled. He opposed, in 1791, the establishment of the first Bank of the United States, because he could find no warrant for it in the constitution; and yet he authorized the negotiation and ratified the treaty for the purchase of Louisiana. He disclaimed the national authority over the subject of internal improvement, and sanctioned an act for the construction of the Cumberland road. He denied the power of Congress to impose duties on imports for any other object than revenue, and yet, under the power to regulate commerce with foreign nations, he recommended an embargo, at a time of profound peace, suspending commerce for a period indefinite, and therefore at the option of Congress, unlimited in duration. Such were some of his peculiar views. I am not about to condemn them. His opinion on the bank, in 1791, was in opposition to the opinions of the greater number of those by whom the constitution was formed, the greater number of those by whom it has been administered, and, I think I may safely add, the greater number of the People of the United States. If, at a subsequent period of his life, he did not change his opinion on the question of its constitutionality, there are reasons for believing that he concurred in considering that question settled by the action of Congress, the sanction of the State Governments, the acquiescence of the People, and the decisions of the judicial department.

Next to him in the cabinet was his compeer and rival, Alexander Hamilton; than whom, of all the statesmen to whom the Revolution gave birth, none have been more violently assailed. It is not my purpose to calumniate him. Educated in the political faith of his great antagonist, I can scarcely be regarded too partial to his original views of constitutional government. But I am not afraid to do him justice. I will not shrink, on this or any occasion, from acknowledging the obligations which, as an American citizen, I owe to him for his public services. Sir, by universal concession of friends and foes, he was a great and shining light. Commencing his career before he had reached the age of maturity, he threw himself with the ardor and impetuosity of youth, into the contest for American liberty. After the close of the Revolution, he was associated with the leading political events of the country. As much to him as to any other single individual, you are indebted for the triumph of that Constitution, which is your glory and your strength. It cannot be denied that his early impressions of the best model of a free government were derived from the English Constitution; but, whatever may have been his predilection for other forms, no sooner was the constitution of the United States adopted by the Convention, than he became the most prominent, the most ardent, I was about to say, the ablest of its advocates. He affixed his signature to that instrument in the Convention that formed it. He defended it before the People, to whom it was referred for ratification, with a power of argument and fervency of zeal that outstripped all competition, and won for him golden opinions from every friend of good government. Of the manner which he succeeded, Mr. Jefferson himself shall speak. In a letter to Mr. Madison, of 18th November, 1788, he thus alludes to the essays of Publius on the Constitution, which was the joint production of Mr. Hamilton, Mr. Madison, and Mr. Jay:

"With respect to the Federalist, the three authors had been named to me. I read it with care, pleasure, and improvement, and was satisfied that there was nothing in it by one of those hands and not a great deal by a second. It does the highest honor to the three, as being in my opinion the best commentary on the principles of government which was ever written."

Sir, this is high commendation—*laudari a viro laudato*. Mr. Hamilton was then but thirty years of age. In 1789, he was called by Washington to the responsible post of Secretary of the Treasury. His efforts to regulate the finances, and establish the public credit, were as unrequited as they were successful. He reduced the former to a system, and placed the latter on a permanent basis. One of his leading measures for the accomplishment of those objects, was a national bank. His argument in support of it has never been satisfactorily answered.

The remaining members of the cabinet were men of high pretensions. General Knox, of the army of the revolution, was appointed to the department of War, and Edmund Randolph, of Virginia, a gentleman of acknowledged professional eminence—who had belonged to the Convention that formed the Constitution, and to the Virginia Convention that ratified it—became the Attorney General.

To be concluded in our next.

From the Buffalo Commercial Advertiser.

#### APPALLING CALAMITY.

Destruction of the Steamboat Erie by Fire, and the loss of 120 lives.

Little did we think yesterday in penning a brief paragraph in commendation of the Erie, that to-day we should be called upon to record the destruction of that boat, together with a loss of life unequalled on our own or almost any waters. The Erie left the dock at ten minutes past four P. M. loaded with merchandise, destined for Chicago, and, as nearly as now can be ascertained, about two hundred persons, including passengers and crew, on board. The boat had been thoroughly overhauled, and although the wind was blowing fresh, every thing promised a pleasant and prosperous voyage. Nothing occurred to mar this prospect till about 8, when the boat was off Silver Creek, about 8 miles

from shore, and 38 miles from this city, when a slight explosion was heard, and immediately, instantaneously almost, the whole vessel was enveloped in flames. Capt. Titus, who was on the upper deck at the time, rushed to the ladies' cabin to obtain the life-preservers, of which there were from 90 to 100 on board, but so rapid had been the progress of the flames, he found it impossible to enter the cabin. He returned to the upper deck, on his way giving orders to the Engineer to stop the engine, the wind and the head-way of the boat increasing the fierceness of the flames, and driving them aft. The Engineer replied, that in consequence of the flames he could not reach the engine. The steamer was instantly directed to put the helm hard a starboard. The vessel swung slowly round, heading to the shore, and the boats (there were three on board) were then ordered to be lowered. Two of the boats were lowered, but in consequence of the heavy sea on, and the head-way of the vessel, they both swamped as soon as they touched water. We will not attempt to describe the awful and appalling condition of the passengers. Some were frantic with fear and horror, others plunged headlong madly into the water, others again seized upon any thing buoyant upon which they could lay hands. The small boat forward had been lowered. It was alongside the wheel, with three or four persons in it, when the captain jumped in, and the boat immediately dropped astern filled with water.

A lady floated by with a life preserver on. She cried for help. There was no safety in the boat. She caught the oar and was saved. It was Mrs. Lynde of Milwaukee, and she was the only lady saved. In this condition, the boat was a mass of fierce fire, and the passengers and crew endeavoring to save themselves by swimming or supporting themselves by whatever they could reach—they were found by the Clinton at 10 P. M. The Clinton left here in the morning, but in consequence of the wind had put into Dunkirk. She laid there until nearly sunset, at which time she ran out, and had proceeded as far as Barcelona, when just at twilight, the fire of the Erie was discovered some 20 miles astern. The Clinton immediately put about and reached the burning wreck about 10. It was a fearful sight. All the upper works of the Erie had been burned away. The engine was standing, but the hull was a mass of dull, red flame. The passengers and crew were floating around, screaming in their agony and shrieking for help. The boats of the Clinton were instantly lowered and manned, and every person that could be seen or heard was picked up, and every possible relief afforded. The Lady, a little steam boat lying at Dunkirk, went out of that harbor as soon as possible, after the discovery of the fire, and arrived soon after the Clinton. It was not thought by the survivors that she saved any. By 1 A. M. all was still except the dead crackling of the fire. Not a solitary individual could be seen or heard on the wild waste of waters. A line was then made fast to the remains of the Erie's rudder, and an effort made to tow the hapless hull ashore. About this time the Chautauque came up and lent her assistance. The hull of the Erie was towed within about four miles of the shore, when it sunk in eleven fathoms water. By this time it was day light. The lines were cast off. The Clinton headed for this port, which she reached about 6 o'clock. Of those who are saved, several are badly burned, but none are dangerously injured so far as we have heard.

Origin of the Fire.—Among the passengers on board were six painters in the employ of Mr. W. G. Miller, of this city, who were going to Erie to paint the steamboat Madison. They had with them demijohns filled with spirits of turpentine and varnish, which, unknown to Capt. Titus, were placed on the boiler deck over the boilers. One of the firemen, who was saved, says he had occasion to go on deck, and seeing the demijohns, removed them. They were replaced, but by whom is not known. Immediately previous to the bursting forth of the flames, as several on board have assured us, a slight explosion was heard. The demijohns had probably burst with the heat and their inflammable contents taking fire instantly, communicated to every part of the boat, which, having been freshly varnished, caught as if it had been gunpowder.

Not a paper nor an article of any kind was saved. Of course it is impossible to give a complete list of those on board. Of Cabin Passengers, Capt. Titus thinks there were between thirty and forty, of whom ten or twelve were ladies. In the Steerage, were about 140 passengers, nearly all of whom were Swiss and German immigrants. They were mostly in families with the usual proportion of men, women and children. The heart bleeds at the thought.

It is a singular coincidence, that the Erie was burned at almost identically the same spot where the Washington was burned in June, 1838. Capt. Brown, who commanded the Washington at that time, happened to be on board the Clinton, and was very active in saving the survivors of the Erie.

The Louisiana Insurrection.—The apprehended insurrection of slaves proves to have been a false alarm. The appointed Court for the trial of the delinquents at Baton Rouge, on the 26th ult. met, and on examination of witnesses, the slave who had given the information of the conspiracy, acknowledged that he had been frightened by whipping, and that he knew nothing of any conspiracy. A correspondent of the Pictorial says that the slaves who were imprisoned have all been liberated, and the insurrection pronounced a humbug.

#### MESSAGE

OF THE

#### PRESIDENT OF THE UNITED STATES

Returning with his Objections, the Bill to Incorporate the Fiscal Bank of the United States.

To the Senate of the United States:

The bill entitled "An act to incorporate the subscribers to the Fiscal Bank of the United States," which originated in the Senate, has been considered by me, with a sincere desire to conform my action in regard to it to that of the two Houses of Congress. By the constitution it is made my duty either to approve the bill by signing it, or to return it, with my objections, to the House in which it originated. I cannot conscientiously give it my approval, and I proceed to discharge the duty required of me by the constitution—to give my reasons for disapproving.

The power of Congress to create a national bank to operate *per se* over the Union, has been a question of dispute from the origin of our Government. Men most justly and deservedly esteemed for their high intellectual endowments, their virtue, and their patriotism, have, in regard to it, entertained different and conflicting opinions. Congress has differed. The approval of one President has been followed by the disapproval of another. The people, at different times, have acquiesced in decisions both for and against. The country has been, and still is, deeply agitated by this unsettled question. It will suffice for me to say, that my own opinion has been uniformly proclaimed to be against the exercise of any such power by this Government. On all suitable occasions, during a period of twenty-five years, the opinion thus entertained has been unreservedly expressed. I declared it in the Legislature of my native State. In the House of Representatives of the United States it has been openly vindicated by me. In the Senate Chamber, in the presence and hearing of many who are at this time members of that body, it has been affirmed and reaffirmed, in speeches and reports there made, and by votes there recorded. In popular assemblies I have unhesitatingly announced it; and in the last public declaration, which I made, and that but a short time before the late presidential election, I referred to my previously-expressed opinions as being those then entertained by me. With a full knowledge of the opinions thus entertained, and never concealed, I was elected by the people Vice President of the United States. By the occurrence of a contingency provided for by the constitution, and arising under an impressive dispensation of Providence, I succeeded to the presidential office. Before entering upon the duties of that office, I took an oath that I would "preserve, protect, and defend the constitution of the United States." Entertaining the opinions alluded to, and having taken this oath, the Senate and the country will see that I could not give my sanction to a measure of the character described, without rendering all claim to the respect of honorable men—all confidence on the part of the people—all self-respect—all regard for moral and religious obligations; without an observance of which no Government can be prosperous, and no people can be happy. It would be to commit a crime which I would not wilfully commit to gain any earthly reward, and which would justly subject me to the ridicule and scorn of all virtuous men.

I deem it entirely unnecessary at this time to enter upon the reasons which have brought my mind to the conclusions I feel and entertain on this subject. They have been over and over again repeated. If some of those who have preceded me in this high office have entertained and avowed different opinions, I yield all confidence that their convictions were sincere. I claim only to have the same measure meted out to myself. Without going further into the argument, I will say that, in looking to the powers of this Government to collect, solely keep, and disburse the public revenue, and incidentally to regulate the commerce and exchange, I have not been able to satisfy myself that the establishment by this Government of a bank of discount, in the ordinary acceptance of that term, was necessary means, or one demanded by propriety, to execute those powers. When the local discounts of the bank have to do with the collecting, safe-keeping, and disbursing of the revenue? So far as the mere discounting of paper is concerned, it is quite immaterial to this question whether the discount is obtained at a state bank or a United States bank. They are both equally local—both beginning and both ending in a local accommodation. What influence have local discounts, granted by any form of bank, in the regulating of the currency and the exchange? Let the history of the late United States Bank aid us in answering this inquiry.

For several years after the establishment of that institution, it dealt almost exclusively in local discounts; and during that period the country was, for the most part, disappointed in the consequences anticipated from its incorporation. A uniform currency was not provided, exchanges were not regulated, and little or nothing was added to the general circulation; and in 1820 its embarrassments had become so great, that the directors petitioned Congress to repeal that article of the charter which made its notes receivable everywhere in payment of the public dues. It had, up to that period, dealt but a very small extent in exchanges, either foreign or domestic; and as late as 1823 its operations in that line amounted to a little more than seven millions of dollars per annum. A very rapid augmentation soon after occurred, and in 1833 its dealings in the exchanges amounted to upwards of one hundred millions of dollars, including the sales of its own drafts; and all these immense transactions were effected without the employment of extraordinary means. The currency of the country in the exchanges was carried on at the lowest possible rates. The circulation was increased to more than \$22,000,000, and the notes of the bank were regarded as equal to specie all over the country; thus showing, almost conclusively, that it was the capacity to deal in exchanges, and not in local discounts, which furnished these facilities and advantages. It may be remarked, too, that notwithstanding the immense transactions of the bank in the purchase of exchange, the losses sustained were merely nominal; while in the line of discounts the expenditure was enormous, and proved most disastrous to the bank and the country. Its power of local discount has, in fact, proved to be a fruitful source of favoritism and corruption, alike destructive to the public morals and to the general wealth.

The capital invested in banks of discount in the United States, created by the states, at this time, exceeds \$350,000,000; and if the discounting of local paper could have produced any beneficial effects, the United States ought to possess the soundest currency in the world. But the reverse is lamentably the fact. Is the measure now under consideration of the objectionable character to which I have alluded? It is clearly so, unless by the 16th fundamental article of the 11th section it is made otherwise. That article is in the following words: "The directors of the said corporation shall establish one competent office of discount and deposit in any state in which two thousand shares shall have been subscribed, or may be held, whenever, upon application of the Legislature of such state, Congress may, by law, require the same. And the said directors may also establish one or more competent offices of discount and deposit in any Territory or District of the United States, and in any state with the assent of such state; and when established, the said office or offices shall be only withdrawn or removed by the said directors, prior to the expiration of this charter, with the previous assent of Congress: Provided, in respect to any state which shall not, at the first session of the Legislature thereof held after the passage of this act, by resolution or other usual legislative proceeding, unconditionally assent or dissent to the establishment of such office or offices within it, such assent of the said state shall be thereafter presumed; And provided nevertheless, That whenever it shall become necessary and proper, for carrying into execution any of the powers granted by the Constitution, to establish an office or offices in any of the states, whatever, and the establishment thereof shall be directed by law, it shall be the duty of the said directors to establish such office or offices accordingly."

It will be seen that by this clause the directors are invested with the fullest power to establish a branch in any State which has yielded its assent; and having once established such branch, it shall not afterwards be withdrawn, except by order of Congress. Such assent is to be implied, and to have the force and sanction of an actually expressed assent. "Provided, in respect to any State which shall not at the first session of the Legislature thereof held after the passage of this act, by resolution or other usual legislative proceeding, unconditionally assent or dissent to the establishment of such office or offices within it, such assent of said State shall be thereafter presumed." The assent or dissent is to be expressed unconditionally, at the first session of the Legislature, by some formal legislative act; and if not so expressed, its assent is to be implied; and the directors are thereupon invested with power, at such time thereafter as they may please, to establish branches, which cannot afterwards be withdrawn, except by resolution of Congress. No matter what may be the cause which may operate with the Legislature, which either prevents it from speaking, or addresses itself to its wisdom, to induce delay; its assent is to be implied. This iron rule is to give way to no circumstances—it is unyielding and inflexible. It is the language of the master to the vassal; an unconditional answer is claimed forthwith; and delay, postponement, or incapacity to answer, produces an implied assent, which is ever after irrevocable. Many of the State elections have already taken place, without my knowledge, of the part of the people, that such a question was to come up. The representatives may desire a submission of the question to their constituents, preparatory to final action upon it. But this high privilege is denied; whatever may be the motives and views entertained by the representatives of the people to induce delay, their assent is to be presumed, and is ever afterwards binding, unless their dissent shall be unconditionally expressed at their first session after the passage of this bill into a law. They may, by formal resolution, declare the question of assent or dissent to be decided and postponed; and yet, in opposition to their express declaration to the contrary, their assent is to be implied. Cases innumerable might be cited to manifest the irrationality of such an inference. Let one or two in addition suffice. The popular branch of the Legislature may express its dissent by a unanimous vote; and its resolution may be defeated by a tie vote of the Senate; and yet the assent is to be implied. Both branches of the Legislature may concur in a resolution of decided dissent, and yet the Governor may exert the veto power, and their legislative action be defeated; and yet the assent of the legislative authority is implied, and the directors of this contemplated institution are

authorized to establish a branch or branches in such State, whenever they may find it conducive to the interest of the stockholders to do so; and having once established it, they can under no circumstances withdraw it, except by act of Congress. The State may afterwards protest against such unjust inference, but its authority is gone. Its assent is implied by its failure or inability to act at its first session, and its voice can never afterwards be heard. To inferences so violent, and, as they seem to me, irrational, I cannot yield my assent. No court of justice could, or could sanction them, without retaining all that is established in judicial proceeding, by introducing presumptions at variance with fact, and inferences at the expense of reason. A State in a condition of distress would be presumed to speak as an individual, manacled and in prison, might be presumed to be in the enjoyment of freedom. Far better to say to the States boldly and frankly—Congress will, and submission is demanded.

It may be said that the directors may not establish branches under such circumstances. But this is a question of power, and this bill invests them with full power to do so. If the Legislature of New York or Pennsylvania, or any other State, should be found to be in such condition as I have supposed, could there be any security furnished against such a step on the part of the directors? Nay, is it not fairly to be presumed that this provision was introduced for the sole purpose of meeting the contingency referred to? Why else should it have been introduced? And I submit to the Senate, whether it can be believed that any State would be likely to sit quietly down under such a state of things? In a great measure of public interest, their patriotism may be successfully appealed to; but to infer their assent from circumstances at war with such inference, I cannot but regard as calculated to excite a feeling of fatal enmity with the peace and harmony of the country. I must, therefore, regard this clause as asserting the power to be in Congress to establish offices of discount in a State, not only without its assent, but against its dissent; and, so regarding it, I cannot sanction it. On general principles, the right in Congress to prescribe terms to any State, implies a superiority of power and control; deprives the transaction of all pretense to compact between them; and terminates, as we have seen, in the total abrogation of freedom of action on the part of the States. But further: the State may express after the most solemn form of legislation, its dissent, which may from time to time thereafter be repeated, in full view of its own interest, which can never be separated from the wise and beneficent operation of this Government; and yet Congress may, by virtue of the last provision, overrule its law, and upon the grounds which, in such State, will appear to rest on a constructive necessity and propriety, and nothing more. I regard the bill as asserting for Congress the right to incorporate a United States Bank, with power and right to establish offices of discount and deposit in the several States of the Union with or without their consent; a principle to which I have always heretofore been opposed, and which can never obtain my sanction. And, waiving all other considerations growing out of its other provisions, I return it to the House in which originated, with these my objections to the approval.

JOHN TYLER.

Washington, on August 16, 1841.

In reference to the disorders alluded to in a resolution moved in the Senate yesterday, as having occurred in this city, we have learned, with not less surprise than indignation, that some gangs of ruffians, instigated in part, no doubt, by liquor, undertook, on Monday night, some time between one and three o'clock, to give vent to their political feelings by disturbing and disgracing the law—our party, as we hear, going through the ceremony of "burying the bank"—the other, more respectable, entering the enclosures of the President's mansion, and disturbing the President's family by insulting notices, to evince in this manner, their disapprobation of the veto. The outrage, we need not say, is viewed with dejection by all classes of orderly citizens; and we are glad to hear that measures have been taken to identify the offenders, and bring them to such punishment as the law will authorize. Some parts of the city were again on Tuesday night by one or two companies of street ruffians; similar to those of which we find in the papers of other cities daily complaints. It is our misfortune that the resources of the city do not enable the Corporation to provide a night watch or a police adequate to the great extent of the place. Nat. Intell.

According to previous arrangement, (says the Baltimore Amer. of Monday,) the heads of departments at Washington, and a large number of the members of Congress and invited guests, visited the ship Delaware, lying off Annapolis, on Saturday. We learn that after inspecting every part of the noble vessel, they were gratified with the novel sight of the exercise of the men in the various evolutions of a naval engagement. The drums beat to quarters, the yards were manned, the cannon fired from the several decks, the masts rattled from the round tops and decks, sail was made and taken in with surprising alacrity—every thing showing the superior excellence of the ship, and the great discipline of the crew. The company, we understand, were highly pleased with their visit, to almost all of whom the sight was entirely new. The President of the United States remained at Washington.







## GENERAL HARRISON.

Among the thousand eulogies of Gen. Harrison, we have seen none more beautiful than that pronounced by Mr. E. D. Mansfield of Cincinnati. We annex the closing paragraph:

"Yesterday the young Harrison entered yonder fort, amidst the thick shades of uncultivated nature. To-day he is gone to his grave, the chief of a great nation; and that spot is alive with a panorama of arts, and men, and busy life, such as fancy herself would not have dreamed! He entered it in the forest; he left it the city. He entered it a subaltern, he left it a President. The country and the man run parallel together. He grew with its growth, and he strengthened with its strength."

"We turn from the vision of the Capitol, to the face of the dead. In that mortal body, and in that quiet sleep, is the end and the summary of all human power. The sounds of the trumpet have died away upon the air; the orb of glory has ceased to shine; and the red flag of victory no more unfolds his crimson sheet. Why gaze the people on you narrow house? Why is it clothed in dark array the altar and the chance? Why does the voice, so lately joyful, give forth only tones of sadness? He is gone! and earth forever. Warrior! thy battle is ended. Statesman, thy duty is done. Farewell to thee, our pioneer chief! No more wilt thou look upon the forest! But green as its foliage, be thy memory to us."

"There is a part of the life of the great and noble, which survives the body, even here on earth. There is a monument more durable than brass. This remembrance in their lives is the memory of their deeds. Fame is the only plant of earth whose leaf never withers. It belongs not so much to the dead as to us; not so much to the present as to the future. It grows with advancing ages."

"Already has Fame seized her trumpet. Already has the recording angel of history taken his pen. Already do the men of future ages come up to read his pictured page. Already do we hear the voices of advancing millions resound his praise, and re-echo his name from the shores of distant time!"

"Tradition among the Indians of the North-west tells us, that when a great chief had fallen, it was the duty of each one of his tribe, as they passed his tomb, to place upon it a handful of earth; and that thus they honored his memory from generation to generation, till by their friendly tributes, that tomb became the mighty mound upon these western plains. So will posterity add its successive honors to the memory of our departed chief. So will that memory grow from age to age with increasing magnitude, till, like that mound rising from the bosom of the prairie, it stands out green and beautiful from the horizon of time!"

**Queen Victoria.**—The following sketch of the appearance of Queen Victoria, is from the pen of the editor of the *Trenton, N. J. Emporium*. We give it to our readers, because it differs so much from the general description of the heretofore given:

"But what of the Queen, you will say, and how does she look? So natural is curiosity about our young, and the accidental heir to such a fortune. A lady, too! Well, I will first tell you how she does not look. She does not look like any one of the thousand portraits I have seen of her. Painters may call them resemblances, but they are not like her. Sultry is a fine picture, but too magnificent. The London artists have made numberless attempts—the windows are full of prints—the studios of busts, and the museums and bazzars of wax figures; but if any are curious enough to know how she does look, they must come to London, as I have done, and take a good long look at her. She was 22 last May—but she does not appear so old. She is a little, delicate, fair-skinned girl, with very light blue eyes and glossy light hair, smoothly dressed off her forehead—her teeth do not show as in her portraits, through I suppose they do a little when her face is at rest. I should call her rather pretty—there is a decided expression of grace, innocent, girlish sweetness in her countenance, just such a face as one who looks on it may well remember for a day—and pray that it may never be clouded with the cares and splendid misery of a station such as hers. I do not know that there is a crown of thorns; but I thought, and perhaps she thought, as she looked quickly and anxiously about her on the crowd, of the mad and wicked attempt, not long since made, that very spot, to assassinate her and her husband, by a boy of eighteen."

"Princess Albert is decidedly a handsome young man, and though he wears the showy military uniform which almost brutalizes the face of three-fourths of the fashionable here, he appears to be a modest, unassuming, quiet, family kind of a personage. He keeps himself entirely clear of the politics of the day, and is never spoken of by any one, except as the Queen's husband."

**Substitute for the "Arden" in Hay-ting.**—John says he always considered it necessary to have a little spirit during hay-ting, so as to have a little stimulus at 11 o'clock, and 4 o'clock, when he began to grow weary. He has now become a Washingtonian, and the way he works it is this. He carries two scythes into the field, both sharpened as keen as a razor. He lays by the best one until 11 o'clock, and mows with the other until that hour, when he feels tired and kind of wants to "fire up." He then takes out the scythe and puts in the keen one, and the way the grass comes down is a

caution to tiplers. Alcohol is a fool to this plan, he thinks, for he not only feels more refreshed by the music of the new scythe, but mows more and cuts a much straighter swath.

A freebooter took a evening walk on a highway to Scotland, overtook and robbed a wealthy merchant traveller. His purpose was not achieved without a severe struggle, in which the thief lost his banner, and was obliged to escape, leaving it on the road. A respectable farmer happened to be the next passer, and seeing the banner, alighted, took it up, and rather imprudently put it on his own head. At this instant the robber came up with some assistance, and recognizing the banner, charged the farmer with having robbed him, and took him in custody. There being some likeness between the parties, the merchant persisted in the charge, and though the respectability of the farmer was admitted, he was indicted and placed at the bar of the Supreme Court for trial. The Government witness, the merchant, swore positively as to the identity of the bonnet, and deposed likewise to the identity of the farmer. The case was made out by this and other evidence, apparently against the prisoner. But there was a man in court who well knew both who did and who did not commit the crime.

This was the real robber, who suddenly advanced from the crowd, and seizing the bonnet, which lay on the table before the witness, placed it on his head, and looking him full in the face, said to him in a voice of thunder, "look at me, sir, and tell, on the oath you have sworn, am not I the man who robbed you on the highway?" "By heaven! you are the very man!" "You see," said the robber, "what sort of memory the gentleman has—leaves to the bonnet whatever features are under it. If the Hon. Judge were to put it on his own head, I dare say he would testify that he robbed him." The innocent prisoner was on this evidence at once acquitted, because no reliance could be placed on such testimony; and yet it was positive evidence. Thus the robber had the merit of saving the guiltless, and himself escaping detection.

**POPULATION OF THE UNITED STATES.**—The Cincinnati Chronicle has been examining the six returns of the Census, taken at intervals of ten years each, since the adoption of the Constitution. The investigations show some curious facts.

1. The population of the United States increases exactly 34 per cent. each ten years, and which doubles every twenty-four years. This law is so uniform and permanent, that when applied to the population of 1790, and brought down to the present time, it produces nearly the very result as shown by the census of 1840.

And thus we may tell with great accuracy what will be the census of 1850. It will be nearly twenty-three millions.

2. But though this is the aggregate result, it is by no means true of each particular part of the country; for New England increases at the rate of 15 per cent. each ten years, while the North Western States increase 100 per cent. in that period.

3. The Slave Population increased at first 30 per cent., but since at less than 25 per cent. The Free population have, however, increased at the rate of 36 per cent. At this rate therefore the difference between the free and slave population is constantly increasing.

4. Another fact is, that the colored population increase just in proportion to the distance south; and that slavery is certainly and rapidly decreasing in the States bordering on the free States.

This state of things continued would in half a century extinguish slavery in these States, and concentrate the whole black population of the United States on the Gulf of Mexico, and the adjacent States on the Southern Atlantic.

The highest of characters, is his who is as ready to pardon the errors of man kind as if he were every day guilty of some himself.

## Attention!!

To the Commissioned Officers and Musicians belonging to the forty seventh Regiment. YOU are hereby ordered and commanded to attend on the 3d day of September, in the town of Hillsborough, at 11 o'clock, equipped according to law, for drill winter; and on Saturday the 4th of September, at 11 o'clock, for Court Martial.

WM. H. WOODS, Col. Comd.  
August 11.

## Five Cents Reward.

REWARD is given for the subscriber, on the 25th of July last, a bound boy by the name of THOMAS MCARDLESS, about nineteen years of age. Five cents reward, but no thanks, will be given for his delivery to me, and all persons are forbid harboring or employing him under the penalty of the law.

HEZEKIAH TERRY.  
Orange, August 6.

## STATE OF NORTH CAROLINA.

Orange County.

Superior Court of Law—March Term, 1841.

William C. Jackson v. Lucinda Jackson.

Petition for Divorce.

THE Defendant in this case being solemnly called and failing to appear, and it appearing to the satisfaction of the Court that she cannot be found within this State; it is therefore ordered by the Court, that publication be made for three months in the Hillsborough Register and Hillsborough Recorder, that unless the said Defendant appear at the next term of this Court to be held for the county of Orange, at the Court House in Hillsborough, on the second Monday of September next, and plead, answer or demur, the petition will be taken pro confesso.

JOS. C. NORWOOD, C. C.  
Price adv. \$7 50.

## Notice.

ON the first Monday in September next, at the Poor House, the Court of Wardens will elect a Superintendent of the Poor for Orange County, for one year from the first of October 1841.

ED. STRUDWICK, Sec'y.

June 5.

## Piano Forte & Music STORE,

Petersburg, Va.

THE BERG & CO. have received during the present week TEN PIANO FORTES, among which is a six and a half Octave Piano Forte, a very superior one to any ever seen here. They have now on hand a very large stock, and would respectfully request those Ladies and Gentlemen of Hillsborough and Environs who are in want of Pianos, to call and see them and try them; and they will be convinced of their superiority to any other manufacture. We will give a written warranty as to their durability and keeping in tune longer than any other.

They have also on hand a large assortment of MUSIC of the latest publication for Piano and Guitar, Strings of all sorts, best Violins, Futes, Accordions, all kinds of Brass Instruments for Military Bands, Drums of all sizes, &c. &c.

C. Berg & Co. would respectfully recommend their assortment of Pianos and Music to Principals and Teachers of Schools. Any order shall be faithfully and promptly attended to.

For the convenience of purchasers in North Carolina, Doctor Watson of Oxford, having kindly consented to act as our Agent, has now on hand some of our instruments. We shall shortly establish agencies in other parts of North Carolina, knowing that whenever our Pianos become known they will be preferred to any other.

July 13.

## NEW GOODS.

THE subscribers have received and offer for sale at their Store-House, one mile north of Cross Roads Meeting House, a fresh and desirable stock of Seasonable Goods, consisting in part of the following articles: Common and Fine Blue Cloths, Invisible Green, do. Cassimeres and Sateen, Black Silk and Satin Vestings, Marcellines, do. French, London and Furniture Prints, Black Silks and Printed Muslin, Gauze Scarfs and Handkerchiefs, Stockinet Drilling and Gambroon, Fashionable Bonnets and Wreaths, Plain, Figured, Swiss and Chequered Muslin, Riband, Edgings and Brown Linen, Linen Bosoms and Collars, Oil Cloths, Hardware, Cutlery, Crockery and Tin Ware.

Paints, Nails and Iron, Leaf and Brown Sugar, SADDLERY—Bridle bits, Buckles, Plush, Webbing, Trees & Morocco Skins, HATS—Beaver, Brush, Russia, Mole-skin and Palm leaf Hats.

Ladies' fine Kid Slippers, and Men's Pumps and Shoes.

500 pounds Cotton Yarn, Books, Paper, and Paper Prints, Mayland's Scotch Snuff, Manufactured Tobacco and Cigars, Fancy and Bar Soap, and many other articles.

ELI MURRAY & CO.

May 5.

71-5m

## Corn! Corn! Corn!

THE subscriber wishes to purchase FIVE HUNDRED BARRELS OF CORN.

J. S. SMITH.

January 13.

55-

## Wanted,

IN exchange for Dry Goods—BEES WAX, TALLOW, FEATHERS, and FLAXSEED.

JAMES WEBB, Jr. & Co.

December 16.

52-

## Received this Day,

and for Sale,

COFFEE, Sugar, Imperial and Hyson Tea, Mustard, Sal Aratus, Coperas, Indigo, Honey-dew Tobacco, Candles, Cotton Cards, best quality, Bed Cords, Plough lines, Window Glass, Powder, Shot, Nails, Ginger, Soap, Blacking, &c.

JAMES WEBB, Jr. & Co.

June 16.

77-

## Just Received and for Sale,

DR. PETERS' Anti Bilious Pills, Dr. Beck with's Anti Dyspeptic Pills, Dr. Phelps' Anti Bilious Tomato Pills, Dr. Sherman's Cough Lozenges, Dr. Sherman's Wound Lozenges, Dr. Sherman's Poor Man's Plaster, for pains in back and breast.

Dr. R. S. Bernard's Cholera Syrup, W. W. Gray's Invaluable Ointment, Harrison's Specific Ointment.

Also, BACON, MEAL & FLOUR.

A. PARKS.

May 5.

71-

## Pine Shingles.

THE subscriber keeps on hand, for sale, PINE SHINGLES.

JAMES S. SMITH.

April 8.

16-

## STATE OF NORTH CAROLINA,

Orange County.

Court of Pleas and Quarter Sessions, May Term 1841.

William R. Smith v. John Freeland and others.

Petition to divide a tract of Land.

IT appearing to the satisfaction of the Court that the defendant, Michael Waterfield and Sally his wife, and Abel Whitefield, are not inhabitants of this State; it is therefore ordered, that publication be made in the Hillsborough Recorder, that unless the said defendant appear at the next term of this Court, at the Court House in Hillsborough, on the fourth Monday in August next, and file his answer, the petition will be taken pro confesso and heard ex parte as to him.

J. TAYLOR, Clerk.

Price Adv. \$4 50.

## NEW GOODS.

THE subscribers beg leave to inform their friends and the public generally, that they are just receiving from the Northern Markets

a neat and well-selected

Stock of

SPRING GOODS,

bought entirely for cash, and will be sold exceedingly low for cash or on a short credit to punctual dealers.

Persons wishing to purchase, would do well to call and see before they buy elsewhere.

MEBANE & TURNER.

May 11.

73-

## BOOTS, SHOES, &c.

for the Spring and Summer.

THE subscriber would respectfully inform his friends and the public generally, that he has just received the largest assortment of articles in his line of business, perhaps ever before brought to this market; and as they have been entirely selected by the subscriber, with an eye to their neatness and durability, he thinks he can give satisfaction to all who may patronize him. The articles have been purchased on very reasonable terms, and will be sold cheap. He invites his friends to call and examine his assortment before purchasing elsewhere. The following are comprised in his assortment, suitable for the Spring and Summer:

Gentlemen's Boots, first quality.

Do. Do. second do.

Do. Shoes, first quality.

Do. Do. second do.

Do. Do. third do.

Do. Pumps—various qualities.

Do. Gaiter Shoes.

Do. Pump Shoes.

Do. Slippers.

Boys' Shoes—various qualities.

Do. Pumps and Slippers.

Ladies' Philadelphia black Kid Slippers.

Do. do. colored do.

Do. Morocco Slippers—thick & thin soled.

Do. Seal-skin Shoes and Slippers.

Do. Leather Shoes and Slippers.

Misses' Philadelphia Morocco Slippers—thick and thin soled.

Do. Colored Slippers—various patterns and qualities.

Do. Morocco and Leather Shoes.

Do. Low Shoes.

Children's Shoes, of almost every size and quality.

In addition to the above, he has received from the North his materials for manufacturing; and, having first rate workmen in his employ, is prepared to execute all orders in his line with neatness and dispatch.

The subscriber would respectfully return his thanks to the public for the very liberal patronage he has received at their hands; and promises that no pains will be spared in the future to give satisfaction.

WM. H. BROWN.

April 29.

70-

## FRESH FRUITS,

Confectionaries, &c.

MRS. VASSEUR takes pleasure in announcing to the public, that she has just received a fresh supply of Fruits, Confectionaries, &c., and is now able to furnish almost any thing that may be wanted in her line of business. They consist principally of the following articles:

Oranges, Lemons, Raisins, Prunes, Figs, Currants and Dates.

Almonds, Walnuts, Brazil Nuts, Soda Crackers, Butter Crackers, Water Crackers, Sugar Crackers.

Lemon Syrup and Fine Juice.

Preserved Ginger, Preserved Pine Apples, Preserved Cherries, Nardines.

A general assortment of Candies, Jujube Paste, excellent for colds.

Cologne, Best Oil, French Pomatum, Balm of Glycerine, aqua ammonia approved article for the hair.

Chewing Tobacco, Cigars, Smoking Tobacco, Matches.

A handsome assortment of Toys.

A few dozen of Corn Brooms, and a few Children's Carriages—sold very cheap.

April 29.

70-

## STATE OF NORTH CAROLINA,

PERSON COUNTY.

Court of Pleas and Quarter Sessions, June Term, 1841.

Lewis Whitfield, Richard Branch and wife Mary, James H. Whitfield, and Emma Rimmer and wife Polly, against Michael Waterfield and wife Sally, Abel Whitefield, and wife Elizabeth, George Whitefield, Archibald Branch and wife Peggy.

Petition for Partition of Land.

IT appearing to the satisfaction of the Court that the defendant, Michael Waterfield and Sally his wife, and Abel Whitefield, are not inhabitants of this State; it is therefore ordered, that publication be made in the Hillsborough Recorder, that unless the said defendant appear at the next term of this Court, at the Court House in Hillsborough, on the fourth Monday in August next, and file his answer, the petition will be taken pro confesso and heard ex parte as to them.

Witness Charles Mason, Clerk of said Court, at office, the third Monday of June, A. D. 1841.

CHARLES MASON, Clerk.

Price Adv. \$5 50.

## Job Printing,

EXECUTED AT THIS OFFICE

## Moffat's Vegetable Life Medcines.

THESE Medicines are indebted for their success to their manifest and sensible action in purifying the springs and channels of life, and ending them with renewed tone and vigor. In many hundred certified cases which have been made public, and in almost every species of disease to which the human frame is liable, the happy effects of MOFFAT'S LIFE PILLS and PHENIX BITTERS have been gratefully and publicly acknowledged by the persons afflicted with the beautifully philosophical principles upon which they are compounded, and upon which they consequently act.

The LIFE MEDICINES recommend themselves in diseases of every form and description. Their first operation is to loosen from the coats of the stomach and bowels, the various impurities and crudities constantly settling around them, and to remove the hardened masses which collect in the convolutions of the small intestines. Other medicines only partially cleanse these, and leave such collected masses behind as to produce habitual constipation, with all its train of evils, or sudden diarrhoea, with its imminent dangers. The fact is well known to all regular anatomists, who examine the human bowels after death; and hence the prejudices of these well informed men against quick medicines, or medicines prepared and heralded to the public by ignorant persons. The second effect of the Life Medicines is to cleanse the kidneys and the bladder, and by this means the liver and the lungs. The healthy regularity of the urinary organs. The blood, which takes its red color from the agency of the liver and the lungs before it passes into the heart, being thus purified by them, and nourished by food coming from a clean stomach, courses freely through the veins, tinct every part of the system, and triumphantly mounts the banner of health in the blooming cheek.

Moffat's Vegetable Life Medicines have been thoroughly tested, and pronounced a sovereign remedy for Dyspepsia, Flatulency, Palpitation of the Heart, Loss of Appetite, Heartburn and Headache, Restlessness, Ill temper, Anxiety, Languor and Melancholy, Costiveness, Diarrhoea, Cholera, Fevers of all kinds, Rheumatism, Gout, Dropsies of all kinds, Gravel, Worms, Asthma and Consumption, Scurvy, Ulcers, inveterate Sores, Scrofulous Eruptions, and Red Complexions, Eruptive complaints, Sallow, Cloudy and other disagreeable Complexions, Erysipelas, Salt Rheum, Common Colds and Influenza, and various other complaints which afflict the human frame. In Fever and Ague, particularly, the Life Medicines have been most eminently successful; so much so that in the Fever and Ague districts Physicians almost universally prescribe them.

All that Mr. Moffat requires of his patients is to be particular in taking the Life Medicines strictly according to the directions. It is not by a newspaper notice, or by any thing that he himself may say in their favor, that he hopes to gain credit. It is alone by the results of a fair trial.

**Moffat's Medical Manual;** designed as a Domestic Guide to Health—This little pamphlet, edited by Wm. B. Moffat, 375 Broadway, New York, has been published for the purpose of explaining more fully Mr. Moffat's theory of diseases, and will be found highly interesting to persons seeking health. It treats upon prevalent diseases, and the causes thereof. Price 25 cents. For sale by Moffat's agents generally.

These valuable Medicines are for sale at the Office of the Hillsborough Recorder.

D. HEARTT, Agent.

May 20.

22-

## NEW GOODS.

VERY CHEAP!!

WE are now receiving from New York and Philadelphia, a handsome assortment of

Spring and Summer

GOODS,

which have been bought cheap, and will be sold cheap.

This purchase was not made by order, but by one of the subscribers; we therefore think we are able to show a stock that most please our friends and customers wishing to treat themselves to a Summer supply.

OUR STOCK COMPRISES,

Superior wool-dyed Black CLOTHS,

Do. do. Blue do.

Do. do. Invisible Green, do.

Black Lams.

Do. Drop Dots, } SUMMER CLOTHS.

Do. Eremites, }

Fancy Cassimeres, Sateen, do.

Cadet Janes, Kentucky Janes, do.

Silk, Satin, Cashmere, } VESTINGS.

and Marcellines, }

Printed Lawn, Jackones and French Muslin.

Chalays, plain and striped Gingham, Figured, striped and plain Light Silks, Black and blue-black Bombazines, French, English and American Prints, Plain and Chequered Muslin.

Long Lawn, Hem stitch and Linen Cambric Handkerchiefs.

Danish and Bird eye Diaper.

Irish and